



General Assembly

**Substitute Bill No. 284**

February Session, 2010

\* SB00284TRA\_\_042610\_\_ \*

**AN ACT CREATING A DIVISION OF ADMINISTRATIVE HEARINGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) There shall be established  
2 a Division of Administrative Hearings within the Commission on  
3 Human Rights and Opportunities. The Division of Administrative  
4 Hearings shall conduct impartial hearings of contested cases in  
5 accordance with the provisions of sections 2 to 9, inclusive, and section  
6 20 of this act and chapter 54 of the general statutes.

7 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) For purposes of sections 2  
8 to 9, inclusive, and section 20 of this act, (1) "administrative law  
9 adjudicator" means a person whose primary duties are to conduct  
10 hearings in contested cases and issue final decisions or proposed final  
11 decisions and who is transferred to the Division of Administrative  
12 Hearings pursuant to section 4 of this act or appointed by the Chief  
13 Administrative Law Adjudicator pursuant to chapter 67 of the general  
14 statutes; and (2) "Chief Administrative Law Adjudicator" means the  
15 administrative law adjudicator designated by the executive director of  
16 the Commission on Human Rights and Opportunities to serve as Chief  
17 Administrative Law Adjudicator for a term of two years.

18 (b) The Chief Administrative Law Adjudicator, administrative law  
19 adjudicators, assistants and other employees of the Division of  
20 Administrative Hearings shall be entitled to the fringe benefits

21 applicable to other state employees, shall be included under the  
22 provisions of chapters 65 and 66 of the general statutes regarding  
23 disability and retirement of state employees, and shall receive full  
24 retirement credit for each year or portion thereof for which retirement  
25 benefits are paid for service as such Chief Administrative Law  
26 Adjudicator, administrative law adjudicator, assistant or other  
27 employee.

28       Sec. 3. (NEW) (*Effective October 1, 2010*) The Chief Administrative  
29 Law Adjudicator shall be the chief executive officer of the Division of  
30 Administrative Hearings and shall:

31       (1) Have all of the powers specifically granted in the general statutes  
32 and any additional powers that are reasonable and necessary to enable  
33 the Chief Administrative Law Adjudicator to carry out the duties of his  
34 or her office;

35       (2) Assign administrative law adjudicators in all cases referred to  
36 the Division of Administrative Hearings, provided, in assigning an  
37 administrative law adjudicator to a case, the Chief Administrative Law  
38 Adjudicator shall, whenever practicable, assign an administrative law  
39 adjudicator who has expertise in the legal issues or general subject  
40 matter of the proceeding;

41       (3) Have all the powers and duties of an administrative law  
42 adjudicator;

43       (4) Prepare an edited version of a proposed final decision and final  
44 decision that shall not disclose protected information in any case  
45 where any provision of the general statutes, federal law, state or  
46 federal regulations, or an order of a court of competent jurisdiction  
47 bars the disclosure of the identity of any person or party or bars the  
48 disclosure of any other information;

49       (5) Collect, compile and prepare statistics and other data with  
50 respect to the operations of the Division of Administrative Hearings  
51 and, not later than January first of each year, submit to the Governor

52 and the General Assembly a report on such operations, including, but  
53 not limited to, the number of hearings held set forth according to  
54 subject matter, the number of proposed final decisions rendered, the  
55 number of partial or total reversals of such decisions by the agencies,  
56 the number of final decisions rendered, the number of proceedings  
57 pending and the amount of time devoted to each subject matter by the  
58 division;

59 (6) Study the subject of administrative adjudication in all its aspects  
60 and develop recommendations to promote the goals of impartiality,  
61 fairness, uniformity and cost-effectiveness in the administration and  
62 conduct of hearings of contested cases;

63 (7) Develop a program for the continuing education of  
64 administrative law adjudicators in procedural due process and in the  
65 substantive law of the agencies that are subject to the provisions of  
66 section 8 of this act and training for ancillary personnel and implement  
67 such program; and

68 (8) Index, by name and subject, all written orders and final decisions  
69 and make all indices, proposed final decisions and final decisions  
70 available for public inspection, and copying electronically and to the  
71 extent required by the Freedom of Information Act, as defined in  
72 section 1-200 of the general statutes.

73 Sec. 4. (NEW) (*Effective October 1, 2010*) (a) Notwithstanding any  
74 provision of the general statutes, each full-time employee or  
75 permanent part-time employee of an agency subject to the provisions  
76 of section 8 of this act whose primary duties (1) are to conduct hearings  
77 in contested cases and issue final decisions or proposed final decisions,  
78 including, but not limited to, human rights referees, staff attorneys,  
79 hearing adjudicators and hearing officers, or (2) relate to providing  
80 administrative services required for conducting such hearings and  
81 issuing such decisions, shall be transferred to the Division of  
82 Administrative Hearings, in accordance with the provisions of this  
83 section and sections 4-38d, 4-38e and 4-39 of the general statutes.

84 (b) Persons transferred to the Division of Administrative Hearings  
85 pursuant to this section and persons appointed by the Chief  
86 Administrative Law Adjudicator pursuant to chapter 67 of the general  
87 statutes shall be in the classified service, represented by the collective  
88 bargaining representative of an employee organization and subject to  
89 the provisions of chapter 68 of the general statutes. Persons transferred  
90 to the Division of Administrative Hearings pursuant to this section  
91 who are members of an employee organization, as defined in section 5-  
92 270 of the general statutes, at the time of their transfer shall continue to  
93 be represented by such employee organization.

94 (c) The salaries, seniority and benefits of persons transferred to the  
95 Division of Administrative Hearings pursuant to this section shall not  
96 be reduced as a result of the transfer.

97 (d) No promotions governed by any existing and applicable  
98 memorandum of understanding between the Office of Labor Relations  
99 and any collective bargaining representative for state employees shall  
100 be denied, delayed, impaired or eliminated by the implementation of  
101 sections 1 to 9, inclusive, of this act.

102 (e) (1) Persons transferred to the Division of Administrative  
103 Hearings pursuant to this section who are members of a collective  
104 bargaining unit at the time of their transfer shall (A) not lose the job  
105 classification in which they are placed at the time of their transfer as a  
106 result of the transfer, and (B) remain the beneficiaries of any existing  
107 and applicable memorandum of understanding between the Office of  
108 Labor Relations and any collective bargaining representative for state  
109 employees. The rights and obligations contained in any memorandum  
110 of understanding that applies to staff attorneys shall apply to  
111 administrative law adjudicators transferred to the Division of  
112 Administrative Hearings and appointed by the Chief Administrative  
113 Law Adjudicator.

114 (2) Persons transferred to the Division of Administrative Hearings  
115 pursuant to this section who are not members of a collective

116 bargaining unit at the time of their transfer, and persons appointed by  
117 the Chief Administrative Law Adjudicator, shall (A) have a job  
118 classification commensurate with persons who are members of a  
119 collective bargaining unit at the time of their transfer, and (B) be  
120 subject to and become the beneficiaries of the terms of any existing and  
121 applicable memorandum of understanding between the Office of  
122 Labor Relations and any collective bargaining representative for state  
123 employees, including the rights and obligations contained in any  
124 memorandum of understanding that applies to staff attorneys.

125 (f) Time served in other agencies by persons transferred to the  
126 Division of Administrative Hearings pursuant to this section shall be  
127 recognized as qualifying experience and time in the Division of  
128 Administrative Hearings shall count as successful and satisfactory  
129 performance for career progression under any existing and applicable  
130 memorandum of understanding between the Office of Labor Relations  
131 and any collective bargaining representative for state employees.

132 (g) An administrative law adjudicator, assistant or other employee  
133 of the Division of Administrative Hearings who is removed,  
134 suspended, demoted or subjected to disciplinary action or other  
135 adverse employment action may appeal such action in accordance  
136 with the applicable collective bargaining agreement.

137 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) Each administrative law  
138 adjudicator shall have been admitted to the practice of law in this state  
139 for at least two years, except that such requirement shall not apply to  
140 any administrative law adjudicator transferred pursuant to section 4 of  
141 this act.

142 (b) An administrative law adjudicator shall have the powers  
143 granted to hearing officers and presiding officers pursuant to sections  
144 1 to 9, inclusive, section 20 of this act and chapter 54 of the general  
145 statutes.

146 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) All hearings in contested

147 cases conducted by the Division of Administrative Hearings shall be  
148 conducted by an administrative law adjudicator assigned by the Chief  
149 Administrative Law Adjudicator and shall be conducted in accordance  
150 with sections 1 to 9, inclusive, and section 20 of this act and sections 4-  
151 176e to 4-181a, inclusive, of the general statutes, as amended by this  
152 act.

153 (b) Unless different time limits are provided by any provision of the  
154 general statutes for contested cases before an agency, the time limits  
155 provided in sections 4-176e to 4-181a, inclusive, of the general statutes,  
156 as amended by this act, shall apply to all contested cases conducted by  
157 the Division of Administrative Hearings.

158 Sec. 7. (NEW) (*Effective October 1, 2010*) An administrative law  
159 adjudicator may conduct hearings and settlement negotiations held by  
160 the Division of Administrative Hearings. If a contested case is not  
161 resolved through settlement negotiations, either party may proceed to  
162 a hearing. An administrative law adjudicator who attempts to settle a  
163 matter may not thereafter be assigned to hear the matter. If a contested  
164 case is resolved by stipulation, agreed settlement or consent order, the  
165 administrative law adjudicator shall issue an order dismissing the  
166 contested case. The order shall incorporate by reference such  
167 stipulation, agreed settlement or consent order which shall be attached  
168 thereto. The order shall further provide that no findings of fact or  
169 conclusions of law have been made regarding any alleged violations of  
170 the law. The order and stipulation, agreed settlement or consent order  
171 may be enforceable by any party in Superior Court. A party may  
172 petition the superior court for the judicial district of New Britain for  
173 enforcement of the order and stipulation, agreed settlement or consent  
174 order and for appropriate temporary relief or a restraining order.

175 Sec. 8. (NEW) (*Effective October 1, 2010*) (a) Notwithstanding any  
176 provision of the general statutes, and except as otherwise provided in  
177 section 9 of this act, on and after October 1, 2010, the Division of  
178 Administrative Hearings shall conduct hearings and render proposed  
179 final decisions or, if authorized or required by law, final decisions in

180 contested cases:

181 (1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of  
182 the general statutes, as amended by this act;

183 (2) Brought by or before the Department of Children and Families;

184 (3) Brought by or before the Department of Transportation; and

185 (4) Brought by or before the Commission on Human Rights and  
186 Opportunities.

187 (b) Any agency that is not required to refer contested cases to the  
188 Division of Administrative Hearings pursuant to this section may,  
189 with the consent of the Chief Administrative Law Adjudicator, refer  
190 any contested case brought by or before such agency, to the Division of  
191 Administrative Hearings for purposes of settlement or a full  
192 adjudication of the contested case by an administrative law  
193 adjudicator. If an agency requests a full adjudication of the contested  
194 case, the agency shall specify whether the decision shall be a final  
195 decision or a proposed final decision. The agency referring the  
196 contested case shall incur the cost of transcripts if the Chief  
197 Administrative Law Adjudicator requests transcription services for the  
198 hearing. Upon issuance of the final decision or proposed final decision,  
199 the Chief Administrative Law Adjudicator shall forward the record to  
200 the referring agency. The Chief Administrative Law Adjudicator, the  
201 presiding officer and the Commission on Human Rights and  
202 Opportunities shall not be parties to any appeal of a decision or  
203 settlement conducted pursuant to this section.

204 (c) The powers, functions and duties of conducting hearings and  
205 issuing decisions in contested cases enumerated in subsections (a) and  
206 (b) of this section shall, on the date specified in subsection (a) of this  
207 section or the date of referral in subsection (b) of this section, be  
208 transferred to the Division of Administrative Hearings in accordance  
209 with the provisions of sections 4-38d, 4-38e and 4-39 of the general  
210 statutes.

211 (d) Any hearing officer under contract with an agency to conduct  
212 hearings and issue decisions in contested cases enumerated in  
213 subsections (a) and (b) of this section shall, on and after the date  
214 specified in subsection (a) of this section or the date of referral in  
215 subsection (b) of this section, continue to serve until all such cases  
216 assigned to such hearing officer are completed, unless the Chief  
217 Administrative Law Adjudicator determines that the case shall be  
218 reassigned to an administrative law adjudicator.

219 (e) Nothing in this section shall be construed to apply to the State  
220 Board of Mediation and Arbitration or the State Board of Labor  
221 Relations.

222 (f) The Department of Children and Families shall execute any  
223 requisite contract with the Division of Administrative Hearings that is  
224 necessary to maintain and secure any federal or state funding or  
225 reimbursement.

226 Sec. 9. (NEW) (*Effective October 1, 2009*) No administrative law  
227 adjudicator may be assigned by the Chief Administrative Law  
228 Adjudicator to hear a contested case with respect to:

229 (1) Any hearing that is required by federal law to be conducted by a  
230 specific agency or other hearing authority; or

231 (2) Any matter where the head of the agency, or one or more of the  
232 members of a multimember agency, presides at the hearing in a  
233 contested case.

234 Sec. 10. Section 4-166 of the general statutes is repealed and the  
235 following is substituted in lieu thereof (*Effective October 1, 2010*):

236 As used in this chapter and sections 1 to 9, inclusive, and section 20  
237 of this act, unless the context otherwise requires:

238 (1) "Agency" means each state board, commission, department or  
239 officer authorized by law to make regulations or to determine

240 contested cases, but does not include either house or any committee of  
241 the General Assembly, the courts, the Council on Probate Judicial  
242 Conduct, the Governor, Lieutenant Governor or Attorney General, or  
243 town or regional boards of education, or automobile dispute  
244 settlement panels established pursuant to section 42-181;

245 (2) "Contested case" means a proceeding, including but not  
246 restricted to rate-making, price fixing and licensing, in which the legal  
247 rights, duties or privileges of a party are required by state statute or  
248 regulation to be determined by an agency or by the Division of  
249 Administrative Hearings after an opportunity for hearing or in which a  
250 hearing is in fact held, but does not include proceedings on a petition  
251 for a declaratory ruling under section 4-176, as amended by this act,  
252 hearings referred to in section 4-168 or hearings conducted by the  
253 Department of Correction or the Board of Pardons and Paroles;

254 (3) "Final decision" means (A) the [agency] determination in a  
255 contested case made pursuant to section 4-179, as amended by this act,  
256 section 20 of this act and section 4-180, as amended by this act, (B) a  
257 declaratory ruling issued by an agency pursuant to section 4-176, as  
258 amended by this act, or (C) [an agency] a decision made after  
259 reconsideration of a final decision. The term does not include a  
260 preliminary or intermediate ruling or order, [of an agency,] or a ruling  
261 [of an agency] granting or denying a petition for reconsideration;

262 (4) "Hearing officer" means an individual appointed by an agency to  
263 conduct a hearing in an agency proceeding that is not conducted by an  
264 administrative law adjudicator pursuant to section 8 of this act. Such  
265 individual may be a staff employee of the agency;

266 (5) "Intervenor" means a person, other than a party, granted status  
267 as an intervenor by an agency in accordance with the provisions of  
268 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as  
269 amended by this act;

270 (6) "License" includes the whole or part of any agency permit,

271 certificate, approval, registration, charter or similar form of permission  
272 required by law, but does not include a license required solely for  
273 revenue purposes;

274 (7) "Licensing" includes the agency process respecting the grant,  
275 denial, renewal, revocation, suspension, annulment, withdrawal or  
276 amendment of a license;

277 (8) "Party" means each person (A) whose legal rights, duties or  
278 privileges are required by statute to be determined by an agency  
279 proceeding and who is named or admitted as a party, (B) who is  
280 required by law to be a party in an agency proceeding, or (C) who is  
281 granted status as a party under subsection (a) of section 4-177a, as  
282 amended by this act;

283 (9) "Person" means any individual, partnership, corporation, limited  
284 liability company, association, governmental subdivision, agency or  
285 public or private organization of any character, but does not include  
286 the agency conducting the proceeding;

287 (10) "Presiding officer" means the head of the agency presiding at a  
288 hearing, the member of [an] a multimember agency, [or] the hearing  
289 officer designated by the head of the agency to preside at [the] a  
290 hearing or an administrative law adjudicator presiding at a hearing;

291 (11) "Proposed final decision" means a final decision proposed by an  
292 agency or a presiding officer under section 4-179, as amended by this  
293 act, or section 20 of this act;

294 (12) "Proposed regulation" means a proposal by an agency under  
295 the provisions of section 4-168 for a new regulation or for a change in,  
296 addition to or repeal of an existing regulation;

297 (13) "Regulation" means each agency statement of general  
298 applicability, without regard to its designation, that implements,  
299 interprets, or prescribes law or policy, or describes the organization,  
300 procedure, or practice requirements of any agency. The term includes

301 the amendment or repeal of a prior regulation, but does not include  
302 (A) statements concerning only the internal management of any  
303 agency and not affecting private rights or procedures available to the  
304 public, (B) declaratory rulings issued pursuant to section 4-176, as  
305 amended by this act, or (C) intra-agency or interagency memoranda;

306 (14) "Regulation-making" means the process for formulation and  
307 adoption of a regulation;

308 (15) "Administrative law adjudicator" has the same meaning as  
309 provided in section 2 of this act; and

310 (16) "Head of the agency" means the individual or group of  
311 individuals constituting the highest authority within an agency.

312 Sec. 11. Subsection (g) of section 4-176 of the general statutes is  
313 repealed and the following is substituted in lieu thereof (*Effective*  
314 *October 1, 2010*):

315 (g) If the agency conducts a hearing in a proceeding for a  
316 declaratory ruling, the provisions of [subsection (b) of section 4-177c,]  
317 section 4-178, as amended by this act, and section 4-179, as amended  
318 by this act, shall apply to the hearing.

319 Sec. 12. Section 4-176e of the general statutes is repealed and the  
320 following is substituted in lieu thereof (*Effective October 1, 2010*):

321 Except as otherwise required by the general statutes, a [hearing in  
322 an agency proceeding may be held before (1)] contested case shall be  
323 heard by (1) an administrative law adjudicator, (2) the head of the  
324 agency, (3) one or more of the members of a multimember agency, or  
325 (4) one or more hearing officers, provided no individual who has  
326 personally carried out the function of an investigator in a contested  
327 case may serve as a hearing officer in that case. [, or (2) one or more of  
328 the members of the agency.]

329 Sec. 13. Section 4-177 of the general statutes is repealed and the

330 following is substituted in lieu thereof (*Effective October 1, 2010*):

331 (a) In a contested case, all parties shall be afforded an opportunity  
332 for hearing after reasonable notice from the agency.

333 (b) The notice shall be in writing and shall include: (1) A statement  
334 of the time, place [,] and nature of the hearing or, if the contested case  
335 has been referred to the Division of Administrative Hearings, a  
336 statement that the matter has been referred to the Division of  
337 Administrative Hearings and that the time and place of the hearing  
338 will be set by an administrative law adjudicator; (2) a statement of the  
339 legal authority and jurisdiction under which the hearing is to be held;  
340 (3) a reference to the particular sections of the statutes and regulations  
341 involved; and (4) a short and plain statement of the matters asserted. If  
342 the agency or party is unable to state the matters in detail at the time  
343 the notice is served, the initial notice may be limited to a statement of  
344 the issues involved. Thereafter, upon application, a more definite and  
345 detailed statement shall be furnished.

346 (c) After an agency refers a contested case to the Division of  
347 Administrative Hearings, the agency shall certify the official record in  
348 such contested case to the Division of Administrative Hearings. The  
349 Division of Administrative Hearings shall issue a notice in writing to  
350 all parties that shall include a statement of the time, place and nature  
351 of the hearing. Thereafter, a party shall file all documents that are to  
352 become part of such record with the Division of Administrative  
353 Hearings. The filing of such documents with the agency rather than  
354 with the Division of Administrative Hearings shall not be a  
355 jurisdictional defect and shall not be grounds for termination of the  
356 proceeding, provided the administrative law adjudicator may assess  
357 appropriate costs and sanctions against a party who misfiles such  
358 documents on a showing of prejudice resulting from a wilful misfiling.  
359 The Division of Administrative Hearings shall maintain the official  
360 record of a contested case referred to said division.

361 [(c)] (d) Unless precluded by law, a contested case may be resolved

362 by stipulation, agreed settlement [.] or consent order or by the default  
363 of a party.

364 [(d)] (e) The record in a contested case shall include: (1) Written  
365 notices related to the case; (2) all petitions, pleadings, motions and  
366 intermediate rulings; (3) evidence received or considered; (4) questions  
367 and offers of proof, objections and rulings thereon; (5) the official  
368 transcript, if any, of proceedings relating to the case, or, if not  
369 transcribed, any recording or stenographic record of the proceedings;  
370 (6) proposed final decisions and exceptions thereto; and (7) the final  
371 decision.

372 [(e)] (f) Any recording or stenographic record of the proceedings  
373 shall be transcribed on request of any party. The requesting party shall  
374 pay the cost of such transcript, unless otherwise provided by law.  
375 Nothing in this section shall relieve an agency of its responsibility  
376 under section 4-183, as amended by this act, to transcribe the record for  
377 an appeal.

378 Sec. 14. Section 4-177a of the general statutes is repealed and the  
379 following is substituted in lieu thereof (*Effective October 1, 2010*):

380 (a) The presiding officer shall grant a person status as a party in a  
381 contested case if [that] such officer finds that: (1) Such person has  
382 submitted a written petition to the agency or presiding officer, and  
383 mailed copies to all parties, at least five days before the date of  
384 hearing; and (2) the petition states facts that demonstrate that the  
385 petitioner's legal rights, duties or privileges shall be specifically  
386 affected by [the agency's] a decision in the contested case.

387 (b) The presiding officer may grant any person status as an  
388 intervenor in a contested case if [that] such officer finds that: (1) Such  
389 person has submitted a written petition to the agency or presiding  
390 officer, and mailed copies to all parties, at least five days before the  
391 date of hearing; and (2) the petition states facts that demonstrate that  
392 the petitioner's participation is in the interests of justice and will not

393 impair the orderly conduct of the proceedings.

394 (c) The five-day requirement in subsections (a) and (b) of this  
395 section may be waived at any time before or after commencement of  
396 the hearing by the presiding officer on a showing of good cause.

397 (d) If a petition is granted pursuant to subsection (b) of this section,  
398 the presiding officer may limit the intervenor's participation to  
399 designated issues in which the intervenor has a particular interest as  
400 demonstrated by the petition and shall define the intervenor's rights to  
401 inspect and copy records, physical evidence, papers and documents, to  
402 introduce evidence [.] and to argue and cross-examine on those issues.  
403 The presiding officer may further restrict the participation of an  
404 intervenor in the proceedings, including the rights to inspect and copy  
405 records, to introduce evidence and to cross-examine, so as to promote  
406 the orderly conduct of the proceedings.

407 Sec. 15. Section 4-177b of the general statutes is repealed and the  
408 following is substituted in lieu thereof (*Effective October 1, 2010*):

409 In a contested case, the presiding officer may administer oaths, take  
410 testimony under oath relative to the case, subpoena witnesses and  
411 require the production of records, physical evidence, papers and  
412 documents to any hearing held in the case. If any person disobeys the  
413 subpoena or, having appeared, refuses to answer any question put to  
414 [him] such person or to produce any records, physical evidence,  
415 papers and documents requested by the presiding officer, the  
416 administrative law adjudicator or, if the hearing is conducted by the  
417 agency, the agency, may apply to the superior court for the judicial  
418 district of [Hartford] New Britain or for the judicial district in which  
419 the person resides, or to any judge of that court if it is not in session,  
420 setting forth the disobedience to the subpoena or refusal to answer or  
421 produce, and the court or judge shall cite the person to appear before  
422 the court or judge to show cause why the records, physical evidence,  
423 papers and documents should not be produced or why a question put  
424 to [him] such person should not be answered. Nothing in this section

425 shall be construed to limit the authority of the agency, the  
426 administrative law adjudicator or any party as otherwise allowed by  
427 law.

428 Sec. 16. Section 4-177c of the general statutes is repealed and the  
429 following is substituted in lieu thereof (*Effective October 1, 2010*):

430 [(a)] In a contested case, each party and the agency, including an  
431 agency conducting the proceeding, shall be afforded the opportunity  
432 (1) to inspect and copy relevant and material records, papers and  
433 documents not in the possession of the party or such agency, except as  
434 otherwise provided by federal law or any other provision of the  
435 general statutes, and (2) at a hearing, to respond, to cross-examine  
436 other parties, intervenors [,] and witnesses, and to present evidence  
437 and argument on all issues involved.

438 [(b) Persons not named as parties or intervenors may, in the  
439 discretion of the presiding officer, be given an opportunity to present  
440 oral or written statements. The presiding officer may require any such  
441 statement to be given under oath or affirmation.]

442 Sec. 17. Section 4-178 of the general statutes is repealed and the  
443 following is substituted in lieu thereof (*Effective October 1, 2010*):

444 In contested cases: (1) Any oral or documentary evidence may be  
445 received, but the [agency] presiding officer shall, as a matter of policy,  
446 provide for the exclusion of irrelevant, immaterial or unduly  
447 repetitious evidence; (2) [agencies shall give effect to] the rules of  
448 privilege recognized by law shall be given effect; (3) when a hearing  
449 will be expedited and the interests of the parties will not be prejudiced  
450 substantially, any part of the evidence may be received in written  
451 form; (4) documentary evidence may be received in the form of copies  
452 or excerpts, if the original is not readily available, and upon request,  
453 parties and the agency, including an agency conducting the  
454 proceeding, shall be given an opportunity to compare the copy with  
455 the original; (5) a party and [such] the agency, including an agency

456 conducting the proceeding, may conduct cross-examinations required  
457 for a full and true disclosure of the facts; (6) notice may be taken of  
458 judicially cognizable facts; [and of] (7) in a proceeding conducted by  
459 the agency or in an agency review of a proposed final decision, notice  
460 may be taken of generally recognized technical or scientific facts  
461 within the agency's specialized knowledge; [(7)] (8) parties shall be  
462 notified in a timely manner of any material noticed, including any  
463 agency memoranda or data, and they shall be afforded an opportunity  
464 to contest the material so noticed; and [(8) the agency's] (9) in a  
465 proceeding conducted by the agency or in an agency review of a  
466 proposed final decision, the agency may use its experience, technical  
467 competence [,] and specialized knowledge [may be used] in the  
468 evaluation of the evidence.

469 Sec. 18. Section 4-178a of the general statutes is repealed and the  
470 following is substituted in lieu thereof (*Effective October 1, 2010*):

471 If a hearing in a contested case or in a declaratory ruling proceeding  
472 is held before a hearing officer or before less than a majority of the  
473 members of the agency who are authorized by law to render a final  
474 decision, a party, if permitted by regulation and before rendition of the  
475 final decision, may request a review by a majority of the members of  
476 the agency, of any preliminary, procedural or evidentiary ruling made  
477 at the hearing. The majority of the members may make an appropriate  
478 order, including the reconvening of the hearing. The provisions of this  
479 section shall not apply to a hearing conducted by an administrative  
480 law adjudicator.

481 Sec. 19. Section 4-179 of the general statutes is repealed and the  
482 following is substituted in lieu thereof (*Effective October 1, 2010*):

483 (a) When, in an agency proceeding that is not conducted by an  
484 administrative law adjudicator, a majority of the members of the  
485 agency who are to render the final decision have not heard the matter  
486 or read the record, the decision, if adverse to a party, shall not be  
487 rendered until a proposed final decision is served upon the parties,

488 and an opportunity is afforded to each party adversely affected to file  
489 exceptions and present briefs and oral argument to the members of the  
490 agency who are to render the final decision.

491 (b) A proposed final decision made under this section shall be in  
492 writing and [contain a statement of the reasons for the decision and a  
493 finding of facts and conclusion of law on each issue of fact or law  
494 necessary to the decision] shall comply with the requirements of  
495 subsection (c) of section 4-180, as amended by this act.

496 (c) Except when authorized by law to render a final decision for an  
497 agency, a hearing officer shall, after hearing a matter, make a proposed  
498 final decision.

499 (d) The parties and the agency conducting the proceeding, by  
500 written stipulation, may waive compliance with this section.

501 Sec. 20. (NEW) (*Effective October 1, 2010*) (a) A proposed final  
502 decision rendered by an administrative law adjudicator shall be  
503 delivered promptly to each party or the party's authorized  
504 representative, and to the agency, personally or by United States mail,  
505 certified or registered, postage prepaid, return receipt requested. After  
506 such proposed final decision is rendered, the record in the contested  
507 case shall be delivered promptly to the agency.

508 (b) A proposed final decision rendered by an administrative law  
509 adjudicator shall become a final decision of the agency unless the head  
510 of the agency, not later than twenty-one days following the date the  
511 proposed final decision is delivered or mailed to the agency, modifies  
512 or rejects the proposed final decision, provided the head of the agency  
513 may, before expiration of such time period and for good cause, certify  
514 the extension of such time period for not more than an additional  
515 twenty-one days. If the head of the agency modifies or rejects the  
516 proposed final decision, the head of the agency shall state the reason  
517 for the modification or rejection on the record. In reviewing a proposed  
518 final decision rendered by an administrative law adjudicator, the head

519 of the agency may afford each party, including the agency, an  
520 opportunity to present briefs and may afford each party, including the  
521 agency, an opportunity to present oral argument.

522 (c) If, within the time period provided in subsection (b) of this  
523 section, the head of the agency, in reviewing a proposed final decision  
524 rendered by an administrative law adjudicator, determines that  
525 additional evidence is necessary, the head of the agency shall refer the  
526 matter to the Division of Administrative Hearings. The Chief  
527 Administrative Law Adjudicator shall assign the administrative law  
528 adjudicator who rendered such proposed final decision to take the  
529 additional evidence unless such administrative law adjudicator is  
530 unavailable. After taking the additional evidence, the administrative  
531 law adjudicator shall, not later than thirty days following such referral,  
532 prepare a proposed final decision as provided in this section based on  
533 such additional evidence and the record of the prior hearing.

534 (d) A proposed final decision made under this section shall be in  
535 writing and shall comply with the requirements of subsection (c) of  
536 section 4-180 of the general statutes, as amended by this act.

537 Sec. 21. Section 4-180 of the general statutes is repealed and the  
538 following is substituted in lieu thereof (*Effective October 1, 2010*):

539 (a) Each agency and administrative law adjudicator shall proceed  
540 with reasonable dispatch to conclude any matter pending before [it]  
541 such agency or administrative law adjudicator and, in all hearings of  
542 contested cases conducted by the agency or the administrative law  
543 adjudicator, shall render a final decision within ninety days following  
544 the close of evidence or the due date for the filing of briefs, whichever  
545 is later. [, in such proceedings.]

546 (b) If, in any contested case, any agency or administrative law  
547 adjudicator fails to comply with the provisions of subsection (a) of this  
548 section, [in any contested case, any party thereto] any party to such  
549 contested case may apply to the superior court for the judicial district

550 of [Hartford] New Britain for an order requiring the agency or  
551 administrative law adjudicator to render a proposed final decision or a  
552 final decision forthwith. The court, after hearing, shall issue an  
553 appropriate order.

554 (c) A final decision in a contested case shall be in writing or, if there  
555 is no proposed final decision, orally stated on the record. [and, if  
556 adverse to a party,] A proposed final decision and a final decision in a  
557 contested case shall include [the agency's] findings of fact and  
558 conclusions of law necessary to [its] the decision and shall be made by  
559 applying all pertinent provisions of law. Findings of fact shall be based  
560 exclusively on the evidence in the record and on matters noticed. The  
561 [agency shall state in] proposed final decision and the final decision  
562 shall contain the name of each party and the most recent mailing  
563 address, provided to the agency, of the party or [his] the party's  
564 authorized representative. If the final decision is orally stated on the  
565 record, each such name and mailing address shall be included in the  
566 record.

567 (d) The final decision shall be delivered promptly to each party or  
568 [his] the party's authorized representative and, in the case of a final  
569 decision by an administrative law adjudicator authorized by law to  
570 render such decision, to the agency, personally or by United States  
571 mail, certified or registered, postage prepaid, return receipt requested.  
572 [The] An agency rendering a final decision shall immediately transmit  
573 a copy of such decision to the Division of Administrative Hearings. A  
574 proposed final decision that becomes a final decision because of  
575 agency inaction, as provided in subsection (b) of section 20 of this act,  
576 shall become effective at the expiration of the time period specified in  
577 said subsection or on a later date specified in such proposed final  
578 decision. Any other final decision shall be effective when personally  
579 delivered or mailed or on a later date specified [by the agency] in such  
580 final decision. The date of delivery or mailing of a proposed final  
581 decision and a final decision shall be endorsed on the front of the  
582 decision or on a transmittal sheet included with the decision.

583 Sec. 22. Subsection (a) of section 4-181 of the general statutes is  
584 repealed and the following is substituted in lieu thereof (*Effective*  
585 *October 1, 2010*):

586 (a) Unless required for the disposition of ex parte matters  
587 authorized by law, no hearing officer, administrative law adjudicator  
588 or member of an agency who, in a contested case, is to render a final  
589 decision or to make a proposed final decision shall communicate,  
590 directly or indirectly, in connection with any issue of fact, with any  
591 person or party, or, in connection with any issue of law, with any party  
592 or the party's representative, without notice and opportunity for all  
593 parties to participate.

594 Sec. 23. Section 4-181a of the general statutes is repealed and the  
595 following is substituted in lieu thereof (*Effective October 1, 2010*):

596 (a) (1) Unless otherwise provided by law, a party or the agency in a  
597 contested case may, within fifteen days after the personal delivery or  
598 mailing of the final decision or within fifteen days after the date that a  
599 proposed final decision becomes a final decision because of agency  
600 inaction, as provided in subsection (b) of section 20 of this act, file with  
601 the [agency] authority that rendered the final decision a petition for  
602 reconsideration of the decision on the ground that: (A) An error of fact  
603 or law should be corrected; (B) new evidence has been discovered  
604 which materially affects the merits of the case and which for good  
605 reasons was not presented in the agency proceeding; or (C) other good  
606 cause for reconsideration has been shown. Within twenty-five days of  
607 the filing of the petition, [the agency] such authority shall decide  
608 whether to reconsider the final decision. The failure of [the agency]  
609 such authority to make [that] such determination within twenty-five  
610 days of such filing shall constitute a denial of the petition.

611 (2) Within forty days of the personal delivery or mailing of the final  
612 decision, the [agency] authority that rendered the final decision,  
613 regardless of whether a petition for reconsideration has been filed,  
614 may decide to reconsider the final decision.

615 (3) If the [agency] authority that rendered the final decision decides  
616 to reconsider [a] the final decision, pursuant to subdivision (1) or (2) of  
617 this subsection, [the agency] such authority shall proceed in a  
618 reasonable time to conduct such additional proceedings as may be  
619 necessary to render a decision modifying, affirming or reversing the  
620 final decision, provided such decision made after reconsideration shall  
621 be rendered not later than ninety days following the date on which  
622 [the agency] such authority decides to reconsider the final decision. If  
623 [the agency] such authority fails to render such decision made after  
624 reconsideration within such ninety-day period, the original final  
625 decision shall remain the final decision in the contested case for  
626 purposes of any appeal under the provisions of section 4-183, as  
627 amended by this act.

628 (4) Except as otherwise provided in subdivision (3) of this  
629 subsection, [an agency] a decision made after reconsideration pursuant  
630 to this subsection shall become the final decision in the contested case  
631 in lieu of the original final decision for purposes of any appeal under  
632 the provisions of section 4-183, as amended by this act, including, but  
633 not limited to, an appeal of (A) any issue decided by the [agency]  
634 authority that rendered the final decision in its original final decision  
635 that was not the subject of any petition for reconsideration or [the  
636 agency's] such authority's decision made after reconsideration, (B) any  
637 issue as to which reconsideration was requested but not granted, and  
638 (C) any issue that was reconsidered but not modified by [the agency]  
639 such authority from the determination of such issue in the original  
640 final decision.

641 (b) On a showing of changed conditions, the [agency] authority that  
642 rendered the final decision may reverse or modify the final decision, at  
643 any time, at the request of any person or on [the agency's] such  
644 authority's own motion. The procedure set forth in this chapter for  
645 contested cases shall be applicable to any proceeding in which such  
646 reversal or modification of any final decision is to be considered. The  
647 party or parties who were the subject of the original final decision, or

648 their successors, if known, and intervenors in the original contested  
649 case, shall be notified of the proceeding and shall be given the  
650 opportunity to participate in the proceeding. Any decision to reverse  
651 or modify a final decision shall make provision for the rights or  
652 privileges of any person who has been shown to have relied on such  
653 final decision.

654 (c) The [agency] authority that rendered the final decision may,  
655 without further proceedings, modify a final decision to correct any  
656 clerical error. A person may appeal [that] such modification under the  
657 provisions of section 4-183, as amended by this act, or, if an appeal is  
658 pending when the modification is made, may amend the appeal.

659 (d) For the purposes of this section and section 4-183, as amended  
660 by this act, in the case of a proposed final decision that becomes a final  
661 decision because of agency inaction, as provided in subsection (b) of  
662 section 20 of this act, the authority that rendered the final decision  
663 shall be deemed to be the agency.

664 Sec. 24. Section 4-183 of the general statutes is repealed and the  
665 following is substituted in lieu thereof (*Effective October 1, 2010*):

666 (a) A person who has exhausted all administrative remedies  
667 available within the agency and who is aggrieved by a final decision  
668 may appeal to the Superior Court as provided in this section. The filing  
669 of a petition for reconsideration is not a prerequisite to the filing of  
670 such an appeal.

671 (b) A person may appeal a preliminary, procedural or intermediate  
672 agency action or ruling to the Superior Court if (1) it appears likely that  
673 the person will otherwise qualify under this chapter to appeal from the  
674 final agency action or ruling, and (2) postponement of the appeal  
675 would result in an inadequate remedy.

676 (c) (1) Within forty-five days after mailing of the final decision  
677 under section 4-180, as amended by this act, or, if there is no mailing,  
678 within forty-five days after personal delivery of the final decision

679 under said section, or (2) within forty-five days after the [agency]  
680 authority that rendered the final decision denies a petition for  
681 reconsideration of the final decision pursuant to subdivision (1) of  
682 subsection (a) of section 4-181a, as amended by this act, or (3) within  
683 forty-five days after mailing of the final decision made after  
684 reconsideration pursuant to subdivisions (3) and (4) of subsection (a)  
685 of section 4-181a, as amended by this act, or, if there is no mailing,  
686 within forty-five days after personal delivery of the final decision  
687 made after reconsideration pursuant to said subdivisions, or (4) within  
688 forty-five days after the expiration of the ninety-day period required  
689 under subdivision (3) of subsection (a) of section 4-181a, as amended  
690 by this act, if [the agency] such authority decides to reconsider the final  
691 decision and fails to render a decision made after reconsideration  
692 within such period, or (5) if a proposed final decision becomes a final  
693 decision because of agency inaction, as provided in subsection (b) of  
694 section 20 of this act, within forty-five days after the decision becomes  
695 final, whichever is applicable and is later, a person appealing as  
696 provided in this section shall serve a copy of the appeal on the agency  
697 [that rendered the final decision] at its office or at the office of the  
698 Attorney General in Hartford and file the appeal with the clerk of the  
699 superior court for the judicial district of New Britain or for the judicial  
700 district wherein the person appealing resides or, if [that] such person is  
701 not a resident of this state, with the clerk of the court for the judicial  
702 district of New Britain. An appeal of a final decision under this section  
703 shall be taken within such applicable forty-five-day period regardless  
704 of the effective date of the final decision. Within [that] such time, the  
705 person appealing shall also serve a copy of the appeal on each party  
706 listed in the final decision at the address shown in the decision,  
707 provided failure to make such service within forty-five days on parties  
708 other than the agency [that rendered the final decision] shall not  
709 deprive the court of jurisdiction over the appeal. Service of the appeal  
710 shall be made by United States mail, certified or registered, postage  
711 prepaid, return receipt requested, without the use of a state marshal or  
712 other officer, or by personal service by a proper officer or indifferent  
713 person making service in the same manner as complaints are served in

714 ordinary civil actions. If service of the appeal is made by mail, service  
715 shall be effective upon deposit of the appeal in the mail.

716 (d) The person appealing, not later than fifteen days after filing the  
717 appeal, shall file or cause to be filed with the clerk of the court an  
718 affidavit, or the state marshal's return, stating the date and manner in  
719 which a copy of the appeal was served on each party and on the  
720 agency [that rendered the final decision,] and, if service was not made  
721 on a party, the reason for failure to make service. If the failure to make  
722 service causes prejudice to any party to the appeal or to the agency, the  
723 court, after hearing, may dismiss the appeal.

724 (e) If service has not been made on a party, the court, on motion,  
725 shall make such orders of notice of the appeal as are reasonably  
726 calculated to notify each party not yet served.

727 (f) The filing of an appeal shall not, of itself, stay enforcement of [an  
728 agency] a final decision. An application for a stay may be made to the  
729 agency, to the court or to both. Filing of an application with the agency  
730 shall not preclude action by the court. A stay, if granted, shall be on  
731 appropriate terms.

732 (g) Within thirty days after the service of the appeal, or within such  
733 further time as may be allowed by the court, the agency shall  
734 transcribe any portion of the record that has not been transcribed and  
735 transmit to the reviewing court the original or a certified copy of the  
736 entire record of the proceeding appealed from, which shall include the  
737 [agency's] findings of fact and conclusions of law, separately stated. By  
738 stipulation of all parties to such appeal proceedings, the record may be  
739 shortened. A party unreasonably refusing to stipulate to limit the  
740 record may be taxed by the court for the additional costs. The court  
741 may require or permit subsequent corrections or additions to the  
742 record.

743 (h) If, before the date set for hearing on the merits of an appeal,  
744 application is made to the court for leave to present additional

745 evidence, and it is shown to the satisfaction of the court that the  
746 additional evidence is material and that there were good reasons for  
747 failure to present it in the proceeding before the [agency] authority that  
748 rendered the final decision, the court may order that the additional  
749 evidence be taken before [the agency] such authority upon conditions  
750 determined by the court. [The agency] Such authority may modify its  
751 findings and decision by reason of the additional evidence and shall  
752 file [that] such evidence and any modifications, new findings [,] or  
753 decisions with the reviewing court.

754 (i) [The] Except as otherwise provided by law, the appeal shall be  
755 conducted by the court without a jury and shall be confined to the  
756 record. If alleged irregularities in procedure before the [agency]  
757 presiding officer are not shown in the record or if facts necessary to  
758 establish aggrievement are not shown in the record, proof limited  
759 thereto may be taken in the court. The court, upon request, shall hear  
760 oral argument and receive written briefs.

761 (j) [The] Unless a different standard of review is provided by law,  
762 the court shall not substitute its judgment for that of the [agency]  
763 authority that rendered the final decision as to the weight of the  
764 evidence on questions of fact. The court shall affirm the final decision  
765 [of the agency] unless the court finds that substantial rights of the  
766 person appealing have been prejudiced because the administrative  
767 findings, inferences, conclusions [,] or decisions are: (1) In violation of  
768 constitutional or statutory provisions; (2) in excess of the statutory  
769 authority of the agency; (3) made upon unlawful procedure; (4)  
770 affected by other error of law; (5) clearly erroneous in view of the  
771 reliable, probative [,] and substantial evidence on the whole record; or  
772 (6) arbitrary or capricious or characterized by abuse of discretion or  
773 clearly unwarranted exercise of discretion. If the court finds such  
774 prejudice, [it] the court shall sustain the appeal and, if appropriate,  
775 may render a judgment under subsection (k) of this section or remand  
776 the case for further proceedings. For the purposes of this section, a  
777 remand is a final judgment.

778 (k) If a particular agency action is required by law, the court, on  
779 sustaining the appeal, may render a judgment that modifies the  
780 [agency] final decision, orders the particular agency action, or orders  
781 the agency to take such action as may be necessary to effect the  
782 particular action.

783 (l) In all appeals taken under this section, costs may be taxed in  
784 favor of the prevailing party in the same manner, and to the same  
785 extent, that costs are allowed in judgments rendered by the Superior  
786 Court. No costs shall be taxed against the state, except as provided in  
787 section 4-184a.

788 (m) In any case in which a person appealing claims that [he] such  
789 person cannot pay the costs of an appeal under this section, [he] such  
790 person shall, within the time permitted for filing the appeal, file with  
791 the clerk of the court to which the appeal is to be taken an application  
792 for waiver of payment of such fees, costs and necessary expenses,  
793 including the requirements of bond, if any. The application shall  
794 conform to the requirements prescribed by rule of the judges of the  
795 Superior Court. After such hearing as the court determines is  
796 necessary, the court shall render its judgment on the application,  
797 which judgment shall contain a statement of the facts the court has  
798 found, with its conclusions thereon. The filing of the application for the  
799 waiver shall toll the time limits for the filing of an appeal until such  
800 time as a judgment on such application is rendered.

801 Sec. 25. Subsection (e) of section 1-82a of the general statutes is  
802 repealed and the following is substituted in lieu thereof (*Effective*  
803 *October 1, 2010*):

804 (e) The judge trial referee shall make public a finding of probable  
805 cause not later than five business days after any such finding. At such  
806 time the entire record of the investigation shall become public, except  
807 that the Office of State Ethics may postpone examination or release of  
808 such public records for a period not to exceed fourteen days for the  
809 purpose of reaching a stipulation agreement pursuant to subsection

810 [(c)] (d) of section 4-177, as amended by this act. Any such stipulation  
 811 agreement or settlement shall be approved by a majority of those  
 812 members present and voting.

813 Sec. 26. Subsection (e) of section 1-93a of the general statutes is  
 814 repealed and the following is substituted in lieu thereof (*Effective*  
 815 *October 1, 2010*):

816 (e) The judge trial referee shall make public a finding of probable  
 817 cause not later than five business days after any such finding. At such  
 818 time, the entire record of the investigation shall become public, except  
 819 that the Office of State Ethics may postpone examination or release of  
 820 such public records for a period not to exceed fourteen days for the  
 821 purpose of reaching a stipulation agreement pursuant to subsection  
 822 [(c)] (d) of section 4-177, as amended by this act. Any stipulation  
 823 agreement or settlement entered into for a violation of this part shall be  
 824 approved by a majority of its members present and voting.

825 Sec. 27. (*Effective October 1, 2010*) On or before January 1, 2012, the  
 826 Legislative Program Review and Investigations Committee shall  
 827 submit to the joint standing committee of the General Assembly  
 828 having cognizance of matters relating to the judiciary a feasibility  
 829 analysis and implementation plan for the transfer of contested cases  
 830 conducted by the Department of Social Services to the Division of  
 831 Administrative Hearings.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section

Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>October 1, 2010</i>	4-166
Sec. 11	<i>October 1, 2010</i>	4-176(g)
Sec. 12	<i>October 1, 2010</i>	4-176e
Sec. 13	<i>October 1, 2010</i>	4-177
Sec. 14	<i>October 1, 2010</i>	4-177a
Sec. 15	<i>October 1, 2010</i>	4-177b
Sec. 16	<i>October 1, 2010</i>	4-177c
Sec. 17	<i>October 1, 2010</i>	4-178
Sec. 18	<i>October 1, 2010</i>	4-178a
Sec. 19	<i>October 1, 2010</i>	4-179
Sec. 20	<i>October 1, 2010</i>	New section
Sec. 21	<i>October 1, 2010</i>	4-180
Sec. 22	<i>October 1, 2010</i>	4-181(a)
Sec. 23	<i>October 1, 2010</i>	4-181a
Sec. 24	<i>October 1, 2010</i>	4-183
Sec. 25	<i>October 1, 2010</i>	1-82a(e)
Sec. 26	<i>October 1, 2010</i>	1-93a(e)
Sec. 27	<i>October 1, 2010</i>	New section

**TRA**      *Joint Favorable Subst.*